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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/751,765	01/05/2004	Pierluca Lombardi	03-728	2275
34704 7590 09/04/2007 BACHMAN & LAPOINTE, P.C. 900 CHAPEL STREET SUITE 1201 NEW HAVEN, CT 06510			EXAMINER GILBERT, ANDREW M	
			ART UNIT 3767	PAPER NUMBER
			MAIL DATE 09/04/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/751,765	Applicant(s) LOMBARDI, PIERLUCA	
	Examiner Andrew M. Gilbert	Art Unit 3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 13-16 and 18-26 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-16, 18 and 21-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/14/2007 has been entered.

### ***Acknowledgments***

2. This office action is in response to the reply filed on 6/14/2007.
3. In the reply, the Applicant amended claims 13 and 21; cancelled claims 1-12; and added new claims 25 and 26. Claims 19-20 were previously withdrawn.
4. Additionally, the Applicant submitted replacement drawing sheets to obviate the previous objection to the drawings.
5. Thus, claims 13-16, 18, 21-26 are pending for examination.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3767

7. Claims 13-16, 18, 21, 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Murphy et al (5685851).

8. Murphy et al discloses an apparatus for regulating pressure applied during a medical procedure, comprising: an inelastic housing (304) enclosing an inner volume, the housing having a first and second end (Fig 6c); an aperture (366) in the housing for conveying pressure from the housing during medical procedure, and a pressure-operated valve (330, 332, 334; Fig 6c; col 10, lns 46-62; also in separate embodiment 44; Fig 2; col 5, lns 7-26; wherein the Examiner notes that Murphy discloses that the check valves in the separate embodiments are substantially the same) coupled between the inner volume of the housing and a space (340, 342, 344 to 338) outside of the inner volume of the housing for allowing pressure to escape from the inner volume of the housing through the valve when pressure in the housing exceeds a threshold, whereby the valve releases pressure from within the inner volume of the housing (330, 332, 334; Fig 6c; col 10, lns 46-62; also in separate embodiment 44; Fig 2; col 5, lns 7-26); wherein the pressure-operated valve is adapted to allow selection of the threshold, during use, from a plurality of different thresholds (330, 332, 334; col 10, lns 46-62); wherein the housing is a cylindrical inelastic housing enclosing the inner volume (Fig 6c, 304; col 10, lns 63-67); wherein the pressure-operated valve comprises: an opening (wherein each of 330, 332, 334 are similar to check valve 40; wherein check valve 40 has opening (48; col 5, lns 7-26) in the housing; a plunger (46; col 5, lns 7-26) disposed within the inner volume of the housing; a spring (44; col 5, lns 7-26) disposed within the inner volume of the housing, wherein the spring is positioned between the second end

of the housing and the plunger (44; col 5, lns 7-26; Fig 2, 6c), wherein the plunger in a rest position is between the opening and the aperture (46; Fig 2, 6c), and wherein as fluid is inserted into the inner volume of the housing via the aperture (col 10, lns 34-44), increased pressure within the inner volume of the housing moves the plunger toward the opening (46, 48; col 5, lns 7-26; and 330, 332, 334; col 10, lns 46-62); wherein the opening is positioned in a side of the housing (330, 332, 334; Fig 6c; wherein the side may be defined as the bottom side) providing access to the inner volume the housing, wherein at normal pressure the opening is closer to the second end than the plunger and wherein as pressure within the inner volume of the housing increases so as to move the plunger past the opening (44, 46, 48; Fig 2; col 5, lns 7-26; and wherein check valves 330, 332, 334 are equivalent to valve 40), the pressure within the inner housing is released through the opening; wherein a plurality of openings (330, 332, 334; Fig 6c) are positioned along the housing, and further comprising a selector member (320) movably mounted relative to the plurality of openings and positionable so as to selectively open one and block others of the plurality of openings (320; Fig 6c; col 10, lns 46-62); a pressure operated valve communicated with the inner volume of the housing and adapted to release pressure from the inner volume when pressure in the inner volume is above a threshold (col 5, lns 7-26; col 10, lns 46-62); wherein the threshold is set by a spring exerting a force which must be overcome to exceed the threshold (col 5, lns 7-26; col 10, lns 46-62), and further comprising a movable member (plunger 46) which can be positioned between at least two different positions corresponding to different forces of the spring which must be overcome to exceed the

threshold (col 5, Ins 7-26; col 10, Ins 46-62); wherein the movable member only causes pressure to be released once the force is overcome (col 5, Ins 7-26; col 10, Ins 46-62).

9. Claims 13-14, 21-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Treu (5630935).

10. Treu discloses an apparatus for regulating pressure applied during a medical procedure, comprising: an inelastic housing (Fig 4a,b) enclosing an inner volume, the housing having a first (top portion of 130) and second end (bottom portion by 138); an aperture (inlet opening of 134 near arrow of 140) in the housing for conveying pressure from the housing during medical procedure, and a pressure-operated valve (78) coupled between the inner volume of the housing and a space outside of the inner volume of the housing for allowing pressure to escape from the inner volume of the housing through the valve when pressure in the housing exceeds a threshold, whereby the valve releases pressure from within the inner volume of the housing (col 9, Ins 56-67); wherein the pressure-operated valve is adapted to allow selection of the threshold, during use, from a plurality of different thresholds (130; 144; col 9, Ins 56-67; wherein the user controls the force and thus the threshold via the adjustment member); wherein the housing is a cylindrical inelastic housing enclosing the inner volume (Fig 4a-b); wherein the pressure-operated valve comprises: an opening (opening of 136 that contacts diaphragm 140) in the housing; a plunger (140) disposed within the inner volume of the housing; a spring (144) disposed within the inner volume of the housing, wherein the spring is positioned between the second end of the housing and the plunger

Art Unit: 3767

(Fig 4a-b), wherein the plunger in a rest position is between the opening and the aperture (Fig 4a-b), a pressure operated valve communicated with the inner volume of the housing and adapted to release pressure from the inner volume when pressure in the inner volume is above a threshold (Fig 4a-b; col 9, lns 56-67; wherein when pressure rises the plunger 140 moves allowing fluid to move into 136 thus releasing pressure); wherein the housing is a syringe (135; wherein the device of Treu is fully capable of acting under use of a syringe – the aperture would change to be 138) comprising a substantially inelastic housing enclosing the inner volume and a plunger within the inelastic housing; wherein the threshold is set by a spring exerting a force which must be overcome to exceed the threshold (col 9, lns 56-67), and further comprising a movable member (140) which can be positioned between at least two different positions corresponding to different forces of the spring which must be overcome to exceed the threshold (col 9, lns 56-67); wherein the movable member only causes pressure to be released once the force is overcome (col 9, lns 56-67).

### ***Response to Arguments***

11. Applicant's arguments with respect to claims 13-16, 18, 21-26 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***


12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 4623335.

Art Unit: 3767

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew M. Gilbert whose telephone number is (571) 272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Andrew Gilbert

KEVIN C. SIRMONS  
SUPERVISORY PATENT EXAMINER

